

REMARKS

I. INTRODUCTION

Applicant thanks the Examiner for the indication of allowable subject matter in claims 8-12 and 17-18. Applicants have amended claims 1, 8, 11, 14 and 19. Accordingly, claims 1-20 are presently pending in this application, with claims 15-16 withdrawn in accordance with a prior restriction requirement.¹ Applicants respectfully request reconsideration of the application in view of the foregoing amendments and the following arguments.

II. AMENDMENTS TO THE SPECIFICATION

Applicants have amended paragraphs [0004] and [0006] so that the paragraphs correspond to claims 1 and 19 as amended and to correct a typographical error. Support for these amendments can be found throughout the specification and drawings including in paragraph [0005] and original claim 17. Accordingly, Applicants submit that these amendments do not add any new matter.

III. AMENDMENTS TO THE CLAIMS

Applicants have amended claim 1 to recite "said notch area providing a turbulizer free area in the fluid chamber between the barrier termination location and the second end." Independent claim 19 has been amended in a similar manner. Support for these amendments can be found throughout the specification and drawings including in paragraph [0005] and original claim 17. Claims 8 and 11 have been amended to place the

¹ Applicants submit, however, that claims 15-16 depend from an allowable generic claim (claim 1) and therefore are also allowable.

claims into independent form. Claim 14 has been amended for clarity. Applicants respectfully submit that these amendments do not add any new matter.

IV. REJECTIONS OF CLAIMS 1-7, 13-14 AND 19-20 UNDER 35 U.S.C. § 103(A)

Claims 1-7, 13-14 and 19-20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Wu et al. (U.S. Published Patent Application No. 2002-0164233 A1) in view of Wiard (U.S. Patent No. 4,623,019). Claims 1-7 and 19-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wu et al. (U.S. Patent No. 6,199,626) in view of Wiard. Applicants have amended claims 1, 14 and 19. Applicants respectfully submit that the rejections of claims 1-7, 13-14 and 19-20 under 35 U.S.C. § 103(a) have been overcome because the combinations of Wu et al. '233 and Wiard and of Wu et al. '626 and Wiard do not disclose or suggest all of the limitations recited in the claims.

"Patent examiners carry the responsibility of making sure that the standard of patentability enunciated by the Supreme Court and by the Congress is applied in each and every case." MPEP § 2141 (emphasis in original).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations.

MPEP § 2143. Applicants submit that the combinations of Wu et al. '233 and Wiard and of Wu et al. '626 and Wiard do not disclose or suggest all of the limitations recited in the claims.

Independent claim 1, as amended, recites "a turbulizer free area in the fluid chamber between the barrier termination location and the second end." Independent

claim 19 has been amended in a similar manner. Applicants submit that the combinations of Wu et al. '233 and Wiard and Wu et al. '626 and Wiard do not disclose or suggest a heat exchanger meeting the above-recited limitation.

In allowing independent claim 17 of the application, the Examiner indicated that "a crucial recitation that defines over the combined teachings of the Wu and Wiard references" is found in the penultimate line of claim 17. The penultimate line of claim 17 required that the notch area of the turbulizer plate provide "a turbulizer plate free area in the fluid chamber between the barrier end and the second end." Applicants have added similar limitations to independent claims 1 and 19. Thus it is clear that both claims 1 and 19 now patentably distinguish over the combination of references relied upon by the Examiner in his rejection of original claims 1 and 19.

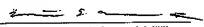
The Examiner admits on page 2 of the Office Action that the Wu et al. reference does not teach a heat exchanger wherein portions of the turbulizer define a notch area therebetween. With respect to this deficiency in the teachings of Wu et al., the Examiner has relied upon the teachings of the Wiard patent which is directed to a stacked plate heat exchanger having a serpentine flow path 29 between adjacent plates, this flow path shown in Figure 6. There are series of thin strips along the serpentine flow path including a first segment 38 in an entrance portion, a segment 39 in an exit portion and a segment 41 in a mid-passage portion. However, in the triangular sections or segments between these three segments there are in fact triangular fin strips and they are not areas which are turbulizer free areas. The Examiner in fact admits that the areas he refers to as "notches 42" contain fin sections that are aligned with the fluid flow direction at the top of page 3 of the Office Action.

Because the combinations of Wu et al. '233 and Wiard and of Wu et al. '626 and Wiard do not teach or suggest all of the limitations recited in independent claims 1 and 19, as amended, Applicants submit that the rejections of independent claims 1 and 19 under 35 U.S.C. § 103(a) has been overcome. Accordingly, Applicants request that the rejections of claims 1 and 19 under 35 U.S.C. § 103(a) be withdrawn. Similarly, at least because claims 2-7, 13-14 and 20 depend from one of the aforementioned independent claims, Applicants submit that the rejections of claims 2-7, 13-14 and 20 under 35 U.S.C. § 103(a) have been overcome and request that the rejections be withdrawn.

V. CONCLUSION

For the above cited reasons, all of the claims presently pending in this application are believed to be allowable. If the Examiner has any further questions or concerns, the Examiner is invited to contact the Applicant's undersigned attorney.

Respectfully submitted,


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